

United States Court of Appeals  
Fifth Circuit

**FILED**

**UNITED STATES COURT OF APPEALS** January 15, 2009

**FOR THE FIFTH CIRCUIT**

Charles R. Fulbruge III  
Clerk

---

No. 08-20290  
Summary Calendar

---

United States District Court  
Southern District of Texas  
FILED

D.C. Docket No. 4:06-CV-2492

FEB 10 2009

*Michael N. Milby, Clerk*

KAREN D MCNEIL

Plaintiff - Appellant

v.

BMC SOFTWARE INC

Defendant - Appellee

Appeal from the United States District Court for the  
Southern District of Texas, Houston.

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and the  
briefs on file.

It is ordered and adjudged that the judgment of the District  
Court is affirmed.

IT IS FURTHER ORDERED that plaintiff-appellant pay to  
defendant-appellee the costs on appeal to be taxed by the Clerk  
of this Court.

ISSUED AS MANDATE: FEB 06 2009

A True Copy  
Attest

Clerk, U.S. Court of Appeals, Fifth Circuit

By: Sabrina B Short  
Deputy

New Orleans, Louisiana

FEB 06 2009